

Election/Restrictions

Claim 38, as amended below, is allowable. The restriction requirement between Groups 1-4 , as set forth in the Office action mailed on 8/13/2008, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Claims 24-35, directed to a process of making the composition, a catalytic system, and a process for the treatment of exhaust gasses, are no longer withdrawn from consideration because the claim(s) requires all the limitations of an allowable claim.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided

by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Nancy Britt on 12/10/2010.

The application has been amended as follows:

Cancel claim 16.

Replace each reference of "claim 16" in claims 17, 20-21, 24, 25, 34, 36, and 37 with --claim 38--.

In the fourth line of claim 24, replace "an abovementioned element" with --at least one lanthanide element other than cerium--.

In line 12 of claim 24, delete "(d) or" and replace with --(d')--.

In the fourth line of claim 25, replace "an abovementioned element" with --at least one lanthanide element other than cerium--.

In line 5 of claim 25, insert --in a medium--after "a precipitate".

In line 6 of claim 25, replace "(c) (d) either adding first to the medium obtained in stage c)" with --(c) either adding first to the precipitate in the medium obtained in stage (b)--.

In the second line of claim 26, replace "an abovementioned element" with --at least one lanthanide element other than cerium--.

In the second line of claim 27, replace "an abovementioned element" with --at least one lanthanide element other than cerium--.

In claim 28, delete "or of the mixture from stage (b)".

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In claim 29, delete "of the precipitate from stage (c) or".

In the second and third line of claim 32, delete "or (c')".

In the second line of claim 33, delete "or (d')".

Replace the text of claim 38 with "A composition based on cerium oxide and on zirconium oxide in a Ce/Zr atomic proportion of at least 1, wherein the composition is produced by a process comprising a first calcination step and a second calcination step, exhibits a level of reducibility of at least 70%, and has a specific surface area of at least 15 m²/g, wherein the temperature of the first calcination step is at least 850 °C, and wherein the temperature of the second calcination step is at least 400 °C."

The following is an examiner's statement of reasons for allowance: The claims as newly amended all require the limitations of allowable claim 38. Claim 38 is allowable over the prior art because as amended it requires the composition of cerium and zirconium oxide to be subjected to two calcination steps (a first at above 850 °C and a second above 400 °C) and to have a reducibility of at least 70% and a specific surface area of at least 15 m²/g. Such a level of reducibility is not taught or suggested by the closest prior art, Blanchard (US2002/0115563), which uses one calcination step. As argued and supported by declaration submitted by applicant on 10/28/2010, the product of Blanchard would exhibit a level of reducibility of at most 58% (see page 11 of Applicant's arguments of 10/28/2010 and the supporting declaration). Thus, at the very least, the process of Blanchard does not necessarily produce the instantly claimed

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product, and thus the examiner's contention that the products are the same is untenable. Further, it is shown by the comparative examples that the second calcination step is critical to produce the required level of reducibility, a step which is not taught or suggested by Blanchard.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY J. ZIMMER whose telephone number is (571)270-3591. The examiner can normally be reached on Monday - Friday 7:30 AM - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ajz

/Anthony J Zimmer/
Examiner, Art Unit 1736

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